

House Democrats Unveil Proposal to Frame Climate Legislation in 2021

July 1, 2020

Key Points

- Democrats in the House Select Committee on the Climate Crisis have released a Climate Crisis Action Plan that aims to achieve net-zero emissions throughout the United States by 2050 and “net-negative” emissions by 2100, largely through sweeping reforms to federal environmental and energy laws.
- The Plan contains many proposals similar or identical to those in the draft CLEAN Future Act announced by the House Energy & Commerce Committee in January 2020, as well as the Green New Deal and former Vice President Joe Biden’s climate plan.
- Given the limited legislative calendar for 2020, the proposals are not likely to advance beyond the House this Congress. Nevertheless, the proposals should be viewed as a framework for advancing climate legislation when the next Congress convenes in 2021.

Overview

Following a nearly 18-month development process dating back to the early days of the current Congress, House Democrats have released the most comprehensive plan to address climate change in our nation’s history. The 538-page plan issued yesterday by the Democrats of the House Select Committee on the Climate Crisis, titled *Solving the Climate Crisis: The Congressional Action Plan for a Clean Energy Economy and a Healthy, Resilient, and Just America* (the “Climate Crisis Action Plan” or the “Plan”), contains a plethora of findings and dozens of legislative recommendations that target all levels of government and nearly every segment of the economy. Similar to the draft version of the *Climate Leadership and Environmental Action for our Nation’s (CLEAN) Future Act* (bill) released by the House Energy & Commerce Committee in January 2020, the Plan sets ambitious goals that would require a wave of extensive—and largely unprecedented—legislation and implementing regulations.¹ The Plan’s overarching goals are to: (1) achieve a “100 percent clean,” net-zero carbon dioxide emissions economy in the United States by 2050; (2) set interim targets to assess progress and reduce pollution in so-called environmental justice communities; and (3) achieve “net-negative emissions” by 2100.

Contact Information

If you have any questions concerning this alert, please contact:

James Romney Tucker Jr.

Partner

jtucker@akingump.com

Washington, D.C.

+1 202.887.4279

Stacey H. Mitchell

Partner

shmitchell@akingump.com

Washington, D.C.

+1 202.887.4338

David H. Quigley

Partner

dquigley@akingump.com

Washington, D.C.

+1 202.887.4339

Henry A. Turhune

Partner

hturhune@akingump.com

Washington, D.C.

+1 202.887.4369

Bryan C. Williamson

Associate

Bwilliamson@akingump.com

Washington, D.C.

+1 202.887.4576

Much of the legislation proposed in the Plan likely would require Democratic majorities in both Houses of Congress to come to fruition, as House Republicans already **have expressed** varying degrees of opposition to the Plan, citing an alleged lack of transparency in the committee process, expressing support for the oil and gas industry, and noting that the vast majority of global air emissions originate outside of U.S. borders. As with many of the House's recent attempts to enact sweeping reforms, the outcome of the 2020 presidential and congressional elections will indicate the viability of these proposals or similar legislation in the next Congress.

Key Legislative Proposals of the House Democratic Congressional Action Plan

The Climate Crisis Action Plan calls for revising or creating a number of federal statutes, expanding the regulatory authority of virtually every major administrative agency, and providing billions of dollars of funding and incentives throughout the economy. The Plan's hundreds of recommendations fall into 12 groups, called "pillars," and include the following proposals (among others):

- *Infrastructure*. This proposal calls for Congress to enact or authorize a number of far-reaching infrastructure-related standards, regulations and incentives, including:
 - A "Clean Energy Standard" to achieve net-zero emissions in the electricity sector by 2040.
 - An "Energy Efficiency Resource Standard" to address increased electricity demand and rising consumer energy prices.
 - Expanded energy tax incentives and grant programs to foster energy efficiency, renewable energy and zero-carbon electricity sources, with a particular focus on energy storage and "equitable access" to clean energy resources for low-income communities and communities of color.
 - Stringent greenhouse gas emission standards for vehicles with a goal to achieve 100 percent sales of zero-emission cars by 2035 and heavy-duty trucks by 2040.
 - Federal incentives for states and cities to update building codes to require all new buildings to achieve net-zero emissions by 2030.
 - Standards for "water infrastructure resilience" to account for impacts from climate change (e.g., flooding, droughts and erosion).
 - Investments in next-generation emergency and wireless communications network technology to respond to natural disasters.
 - National methane pollution reduction requirements resulting in 70 percent reductions for the oil and gas sector by 2025 (compared to 2012 levels), a ban on methane flaring, new standards for pipeline operators to detect and repair methane leaks and a rescission of protections for the oil and gas industry under the federal Clean Air Act, Clean Water Act, and the Resource Recovery and Conservation Act.
- *Clean Energy and Deep Carbonization Technologies*. To achieve its goal of a fully decarbonized economy, this proposal would encourage Congress to recommit to Mission Innovation, a global initiative to accelerate global clean energy innovation. In addition, the Plan calls for increased funding for clean energy research, support for regional energy innovation partnerships among states and the creation of a national climate bank. Importantly, the Plan would result in an overhaul of the U.S.

Department of Energy by re-orienting the Department's mission and organization around climate.

- *Manufacturing and Industrial Transformations.* This proposal aims to “rebuild” all segments of U.S. industry by establishing performance standards for industrial facilities that would require emissions reductions. The Plan also calls for increased funding of industrial decarbonization, including technologies such as carbon capture, utilization and storage; revolving loans for energy-related upgrades; and a federal “Buy Clean” program that would create markets for low-emission goods. A core component of the Plan includes a tax credit to facilitate technological, climate-friendly upgrades, as well as significant federal investment in direct air capture technology.
- *Tax Code Revisions.* To fund the Plan's proposals and create incentives for low-emission firms and technologies, the Plan calls for the repeal of “tax breaks for large oil and gas companies” and a carbon pricing mechanism that favors pollution reductions in environmental justice communities.
- *Workforce Transition.* Recognizing the fundamental economic shift that would be required to achieve the Plan's most ambitious goals, this proposal purports to ease the employment-related impacts by advocating for strengthened union representation, stringent labor standards for projects receiving federal funding and the creation of a National Economic Transition Office to assist displaced workers.
- *Environmental Justice Initiatives.* Echoing a key component of the Green New Deal and former Vice President Joe Biden's climate plan, this proposal seeks to position environmental justice “at the center of federal climate and environmental policy.” To that end, the Plan calls for legislation to require the U.S. Environmental Protection Agency to consider environmental justice impacts as part of the cumulative effect of permitting decisions. In addition, the Plan supports funding for research on environmental impacts on environmental justice communities, as well as greater opportunities for engagement throughout the policy-making process.
- *Public Health Improvements.* Recognizing the public health impacts of climate change, this proposal includes requiring the U.S. Department of Health and Human Services to develop a national plan to prepare for future responses to climate-related health risks, such as those related to extreme weather events, pollution and food insecurity. Perhaps influenced partly by the COVID-19 pandemic, the Plan also recommends additional federal support for global surveillance and health threat responses, including a strengthened supply chain for health commodities and expanded capacity for the Centers for Disease Control and Prevention to assist local governments in climate-related initiatives.
- *Agricultural Incentives.* This proposal urges Congress to “dramatically increase” investments to help farmers and ranchers adopt “climate stewardship” practices, such as through increased funding for Farm Bill conservation programs and greater technical assistance to help farmers and ranchers to foster climate mitigation and resilience. Rather than recommend direct regulation on small farmers and ranchers, the Plan opts for a more incentive-driven approach, including coordination with local agencies to combat food waste.
- *Community Resilience.* To help communities facing the impacts of higher global temperatures, increasingly severe storms and wildfires, the Plan proposes several federal programs, including a National Climate Adaptation Program to provide

technical assistance to states and localities, a Tribal Government Task Force to assist tribes' climate responses, a Climate Risk Information Service to help local governments promulgate climate change resilience codes and a national wildfire mitigation strategy. The Plan also contains numerous spending and incentive-related measures, as well as a plan to revise the federal tax code to spur resiliency improvement. Lastly, the Plan would reshape the way federal agencies do business by requiring agencies to plan for climate disruptions and contractors to disclose greenhouse gas emissions and climate risks in their supply chains.

- *Land, Water and Wildlife Protections.* In sharp contrast with the Trump administration's numerous environmental rule rescissions and replacements, this proposal recommends protecting at least 30 percent of the country's land and ocean areas by 2030. Notably, the Plan also calls for a moratorium on all new fossil fuel leases on public lands and a prohibition on offshore oil and gas leasing. Moreover, the Plan calls for a development of a comprehensive strategy to achieve net-zero emissions on public lands and waters by 2040.
- *International Affairs.* Noting that a future U.S. president may re-commit the United States to the Paris Climate Agreement, this proposal would go even further by requiring defense agencies to consider climate adaptation and resilience and "confront climate security threats" both within and outside of the country. The Plan also calls upon Congress to provide aid through the Green Climate Fund and take steps to prevent global deforestation, black carbon pollution and the environmental degradation of the Arctic.
- *Structural Reform.* Finally, this proposal calls for increased federal support for climate science, such as through strengthened scientific integrity policies and requirements that agencies act on the best available science. The Plan also would expand the Congressional Budget Office's capacity to study climate risks, establish an interagency working group to update prior studies on the social cost of carbon and bolster "democratic institutions" through reforms to campaign finance, voting rights and federal ethics laws. In addition, the Plan would direct the Office of Management and Budget to improve the ability of the U.S. government to analyze the cost and benefits of climate resilience projects.

A Look Ahead

As with the CLEAN Future Act, the many proposals outlined in the House Democratic Plan require support in both the legislative and executive branches, as well as (potentially) years of lawmaking, rulemaking and stakeholder engagement. As the nation continues to address the COVID-19 pandemic and prepare for the upcoming election, it is unlikely that we will see significant movement in this area during 2020. The Plan, however, reflects the ever-growing appetite for comprehensive legislation and continued dialogue surrounding climate change. We expect many of these proposals to take center stage in the political debate leading up to the November election and in proposed climate legislation over the next several years, particularly if Democrats regain control of both chambers of Congress and/or the White House in 2021.

¹ In February, we [outlined](#) the core components of the proposed CLEAN Future Act, which contains a number of proposals similar or identical to those outlined in the Plan.